

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (STAMP) NO.1987 OF 2007
IN
APPEAL FROM ORDER NO.42 OF 2007
IN
NOTICE OF MOTION NO.1767 OF 2006
IN
SUIT NO.1997 OF 2006

Mrs.Charu Kishor Mehta ...Appellant

Versus

Lilavati Kirtilal Mehta Medical
Trust & Ors. ...Respondents

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Mr.Rohit Kapadia, Sr.Counsel i/b M/s.T.N.Tripathi &
Co. for Appellant.

Mr.R.A.Dada, Sr.Counsel with Mr.Sanjay Jain i/b
M/s.Nankani & Associates for Respondents 1, 2 and 5
to 9.

Mr.C.S.Kapadia i/b Mr.M.G.Gawde for Respondents 4 &
10.

.....

CORAM: A.M.KHANWILKAR, J.

JANUARY 29, 2007.

P.C.

1. Not on Board. Upon mentioning, taken on
Board.

2. This Application is taken out by the Appellant (original Plaintiff) for speaking to the minutes or clarification of the order dated 19th January 2007 on three counts.

3. The first prayer is that correction be carried out in Para 4, as the contents thereof would suggest as if Counsel appearing for the Appellant had agreed that the opinion expressed by this Court may influence the outcome of the Suit which is pending before the Trial Court. Indeed, it is not in dispute that the Counsel agreed that detailed reasons may not be recorded by this Court. In other words, the latter part of the relevant sentence was the opinion expressed by the Court which was put to the Counsel during the hearing on account of which the Counsel agreed that detailed reasons may not be recorded. Thus understood, no clarification or correction is necessary.

4. The second request is to correct or clarify the sentence beginning with expression "At best" and ending with "its trust" in Para 5. It is stated that taking benefit of the order passed by

this Court, the Trust has issued letter dated 23rd January 2007 asking the Appellant not to interact or communicate with the employees and/or consultants of the hospital, except through the Board of Trustees of the Trust. It is submitted that even if the Appellant was to issue memo to the employee (sweeper) to do his job properly, the Trust may rely on the Resolution No.3 and the order passed by this Court to assert that the Appellant is in contempt of the Court. This submission does not commend to me. For, the argument is not for speaking to the minutes or clarification, but review of the order. I have already affirmed the view taken by the Trial Court insofar as Resolution No.3 is concerned and that position is spelt out in Para 5 of my order dated 19th January 2007. I find no reason to clarify or correct the order as passed. The Appellant may take up the matter in appeal, if so advised.

5. The third request is to clarify that the observation made in Para 6 of the order that the Charity Commissioner will decide the proceedings pending before it on its own merits in accordance

with law uninfluenced by any of the observations in the impugned Judgment. It was argued that that observation may also be extended in respect of other proceedings in any Court of law. I see no reason as to why this limited clarification should not be granted although the prayer is opposed by the Counsel for the Respondents. The appropriate Court will consider the efficacy of any finding noted by the Trial Court or this Court, keeping in mind the observation that it will have to decide the proceedings before it on its own merits in accordance with law.

6. Application disposed of on the above terms.

A.M.KHANWILKAR, J.